REMARKS

Claims 1-22 are pending in the application. Claims 1-22 are objected to. Claims 1-22 are rejected. Claims 1-5, 7-11 and 13-22 have been amended. New claims 23-26 have been added. Reconsideration of the claims is respectfully requested.

Claim Rejections - 35 U.S.C. §112

Claims 1-22 are rejected under 35 U.S.C. § 112, second paragraph.

Claims 1-5, 7-11 and 13-22 have been amended as suggested by the Examiner.

With respect to claims 6 and 12, it was alleged that the lower network layer is not compared to anything. However, referring to claim 6, line 12, the lower network layer is compared to the upper network layer. Similarly, referring to claim 12, line 23, the lower network layer is compared to the upper network layer.

Claim Rejections - 35 U.S.C. §103

Claims 1, 7, 13, and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cassella (PCT # WO 00/62494) in view of Bradley et al. (U.S. Patent No. 6,366,580).

Claim 1 has been amended. Support for the amendment can be found in the present specification on page 7, line 21 through page 8, line 4. The combination of Cassella and Bradley fail to teach at least the element of maintaining the first and second switched virtual circuits concurrently according to a comparison of an updated rate and a minimum threshold.

With respect to Bradley, the element of maintaining the first and second switched virtual circuits concurrently according to a comparison of an updated rate and a minimum threshold is not disclosed. Furthermore, Bradley teaches away from any modification to include the maintaining concurrently element because Bradley teaches the opposite; e.g. tearing down SVC 1 as soon as a switch_over_confirm message is received. See col. 5, lines 31-57.

With respect to Cassella, the element of maintaining the first and second switched virtual circuits concurrently according to a comparison of an updated rate and a minimum threshold is not disclosed. Cassella discloses determining whether to open a new SVC connection if sufficient bandwidth to carry a requested call is not available. See abstract. If a new SVC connection is created, the new call is put on the new SVC connection. *Id.* There is no suggestion to maintain the SVCs connections *according to a comparison.* Instead, the SVS connections presumably eventually timeout or are maintained indefinitely according to nothing.

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PAGE 10/14 * RCVD AT 10/6/2005 12:43:26 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/27 * DNIS:2738300 * CSID:5032744622 * DURATION (mm-ss):08-08

In contrast to Bradley and Cassella, claim 1 includes the element of maintaining the first and second switched virtual circuits according to a comparison of an updated rate and a minimum threshold. This feature avoids the reservation of an unnecessary amount of bandwidth. Thus claim 1 should be allowed. Claims 2-6 are dependant.

Claim 7 has been amended. Support for the amendment can be found in the present specification on page 7, line 21 through page 8, line 4 and on figure 4. First, the combination of Cassella and Bradley fail to teach at least the element of a means for closing one of the first or second switched virtual circuits according to a comparison of an updated rate and a minimum threshold.

The combination fails to disclose a means for closing one of the first or second switched virtual circuits according to a comparison is not disclosed. Bradley teaches starting a switch over in response to a detection that a call type is a fax call, for example by determining that the call includes a 2100MHz tone or by detecting a descriptor. See col. 3 lines 46-59 and col. 2, lines 1-6. A 2100MHz tone is not an updated rate and a descriptor is not an updated rate. Bradley teaches tearing down SVC1 as soon as a switch_over_confirm message is received. See col. 5, lines 31-57. The switch_over_confirm message is sent as soon as an SVC2 connection is established and is not initiated according to a comparison of an updated rate. See col. 4, lines 45-48. Cassella fails to disclose or suggest closing the connections.

In contrast, claim 7 includes the feature of a means for closing one of the first or second switched virtual circuits according to a comparison of an updated rate and a minimum threshold. This feature avoids the reservation of an unnecessary amount of bandwidth. Thus claim 7 should be allowed. Claims 2-6 are dependant.

Claim 13 has been amended. Support for the amendment can be found in the present specification on page 1, lines 8-10, page 5, lines 31-35, page 7, lines 7-12 and page 7, line 21 through page 8, line 4. First, the combination of Bradley and Cassella fail to teach at least the element of the first and second virtual switched circuits remaining open at a same time and a first portion of packets for a connection being transmitted through the first switched virtual circuit while a second portion of packets for the connection being transmitted through the second switched virtual circuit. Second, as discussed with respect to claim 1, the combination of Bradley and Cassella also fail to disclose at least the maintaining according to a comparison element.

First, Bradley fails to teach at least a first and second virtual switched circuit remaining open at a same time and a first portion being transmitted while a second portion is

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being transmitted. In Bradley, switch 10 transmits through only one SVC at a time. During a first time period, switch 10 is sending over only SVC 1. See col. 5, lines 50-54. At a second time period, switch 10 is sending over only SVC 2 because switch 10 tears down SVC 1 and does the switchover *upon* receiving switch_over_confirmation. See col. 5, lines 54-59. Thus, Bradley teaches away from transmitting a first portion of packets for a connection over a first virtual switched circuit *while* transmitting a second portion of packets for the connection over a second virtual switched circuit.

Cassella also fails to disclose this element. In Cassella, upon receiving a requested call a determination of whether an existing SVC can accommodate the call is made. If there is no existing SVC, a determination is made as to whether there is bandwidth available to open a new SVC to accommodate the call. Nothing suggests splitting the requested call between an existing SVC and a new SVC. Thus, Cassella fails to teach this element.

In contrast, claim 13 includes the feature of the first and second virtual switched circuits remaining open at a same time and a first portion of packets for a connection being transmitted through the first switched virtual circuit while a second portion of packets for the connection being transmitted through the second switched virtual circuit. Thus bandwidth is dynamically allocated to make use of existing SVCs that cannot by themselves accommodate the single connection. Thus claim 13 should be allowed. Claim 13 should also be allowed for at least the second reason that Bradley and Cassella also fail to disclose at least the maintaining according to a comparison element. Claims 13-17 are dependant and should also be allowed. Claim 18 has been amended and should be allowed for at least a similar reason as claim 7. Claims 19-22 are dependant and should also be allowed.
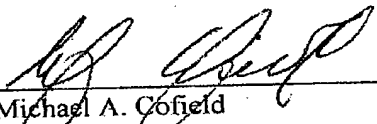
New claims

New claims 23-26 have been added. Support for new claims 23, 24 and 26 can be found in the present specification on page 7, line 21 through page 8, line 4. Support for new claim 25 can be found on page 1, lines 8-10.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of claims 1-26 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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